

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRED FELEKI MARTINEZ,

Plaintiff,

v.

PETERSON,

Defendant.

No. 2:21-cv-01779-DAD-JDP (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT

(Doc. No. 75, 100)

Plaintiff, a state prisoner proceeding *pro se* and *in forma pauperis*, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 11, 2025, the assigned magistrate judge issued findings and recommendations recommending that defendant's motion for summary judgment be granted. (Doc. No. 100.) Specifically, the magistrate judge noted the Ninth Circuit's holding that on summary judgment, "[i]f the factual context makes the non-moving party's claim implausible, that party must come forward with more persuasive evidence than would otherwise be necessary to show that there is a genuine issue for trial. No longer can it be argued that any disagreement about a material issue of fact precludes the use of summary judgment." *California Architectural Bldg. Prods., Inc. v.*

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1 *Franciscan Ceramics, Inc.*, 818 F.2d 1466, 1468 (9th Cir. 1987) (citing *Matsushita Elec. Indus.*
 2 *Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986)); *see also Blue Ridge Ins. Co. v. Stanewich*, 142
 3 F.3d 1145, 1147 (9th Cir. 1998); *Harper v. Wallingford*, 877 F.2d 728, 731 (9th Cir. 1989).

4 The magistrate judge noted that on summary judgment, defendant had come forward with
 5 evidence indicating that, without assessing credibility, the allegations of plaintiff's verified
 6 complaint are implausible. (Doc. No. 100 at 4.) Plaintiff alleges that on April 8, 2021, he told
 7 defendant Peterson that he was feeling suicidal. (Doc. No. 1 at 3.) Later that night, plaintiff
 8 alleges he broke a light in his cell and used it to cut himself. (*Id.*) When defendant Peterson
 9 returned for "pill call," plaintiff allegedly showed him and the nurse "blood from the cutting" and
 10 broken glass, but defendant Peterson declined to take any action. (*Id.*) However, on summary
 11 judgment defendant Peterson has submitted evidence which he purports demonstrates that
 12 plaintiff's version of events simply did not occur. In this regard, he has attached a declaration of
 13 Dr. Shirikian, a clinical and forensic psychologist who reviewed plaintiff's mental health records.
 14 (Doc. No. 75-6 at ¶¶ 1, 2.) Dr. Shirikian states that she reviewed 592 pages of plaintiff's mental
 15 health records and found no notable clinical interactions between March 30, 2021 and June 20,
 16 2021 and no mention of the alleged April 8, 2021 incident. (*Id.* at ¶¶ 5, 9.)¹ Defendant Peterson
 17 also has attached a declaration of Dr. Bobbala, the Chief Medical Executive at California State
 18 Prison, Sacramento, who declares that a review of plaintiff's medical records reveals no
 19 documentation of plaintiff suffering any physical injury whatsoever on or around April 8, 2021.
 20 (Doc. No. 75-5 at ¶ 6.) Further, defendant Peterson has submitted a declaration of A. Brown, a
 21 Plant Operations Analyst previously employed by the California Department of Corrections and

22 ¹ Dr. Shirikian observes, however, that plaintiff's mental health record do contains record of
 23 events which took place in March 2021 and June 2021. On March 22, 2021, the mental health
 24 crisis triage team was contacted when custody staff observed a noose in plaintiff's cell. (Doc. No.
 25 75-6 at ¶ 4.) Plaintiff "reported feeling anxious about his housing," and the "reported mental
 26 health symptoms resolved when a sergeant provided more information about his impending cell
 27 move." (*Id.*) "The mental health note based on this encounter states, 'IP is known to engage in
 28 suicidal gestures for non-MH reasons.'" (*Id.*) Another incident is documented as having
 occurred on June 20, 2021, wherein a crisis triage assessment was conducted after plaintiff "made
 superficial cuts on his body" and reported "that he felt ignored by custody staff," and the
 subsequent mental health evaluation "concluded the gestures were made in an effort to gain a
 change in housing." (*Id.* at ¶¶ 7-9.)

1 Rehabilitation, who states that a search for work orders for broken lights in the relevant housing
2 area between March 1, 2021 and May 30, 2021 revealed no results. (Doc. No. 75-8 at 1–2.)
3 Finally, defendant Peterson has submitted the declarations of himself and psychiatric technician
4 Akwara, who conducted “pill call” with defendant Peterson in the relevant housing area on April
5 8, 2021. (Doc. Nos. 75-7, 75-9.) Both Peterson and Akwara declare that while they do not
6 specifically recall the events of April 8, 2021, they have never ignored an inmate who informed
7 them that he was suicidal, and that doing so could result in the imposition of discipline and
8 termination. (Doc. Nos. 75-7 at ¶¶ 5–8; 75-9 at ¶ 6.) Akwara further declares that she has “never
9 seen an inmate slide broken glass or blood stained paper under his door during pill call” and has
10 “never ignored an inmate who was actively bleeding.” (Doc. No. 75-9 at ¶¶ 8, 9.) She also
11 declares that, “at any time of day including during pill call,” “if an inmate informed me he was
12 suicidal or was going to hurt himself, I would immediately stop what I was doing and notify
13 correctional staff” who “would then escort the inmate to a holding cell where he could be
14 monitored for safety.” (*Id.* at ¶ 5.)

15 In opposition, plaintiff submitted no evidence supporting his version of events on April 8,
16 2021. He points to an excerpt of his own deposition testimony, in which he testified that the light
17 bulb in his cell was a “screw-in light bulb,” purportedly to explain why there was no work order
18 regarding a broken light during the relevant time period. (Doc. No. 99 at 14.) Plaintiff also relies
19 on his deposition testimony and a mental health form as evidence of the fact that he has attempted
20 suicide in the past. (*Id.* at 17–18.) However, plaintiff has not come forward with any evidence on
21 summary judgment regarding the April 8, 2021 incident, and he provides no explanation for why
22 there is no mention of any such event in his health records, particularly when according to
23 plaintiff his self-inflicted injury was so serious that, in his own words, “it’s highly likely plaintiff

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1 wouldn't be here today" if he did not wrap his arm with toilet paper to stop the bleeding, and the
2 cut "left a visible dark scar."² (Doc. No. 99 at 6–7, 9.)

3 Accordingly, the magistrate judge concluded that "plaintiff's claim that he underwent a
4 serious mental health episode and suffered a serious, self-inflicted physical injury are belied by
5 institutional records that render his account impossible," and his opposition to the pending motion
6 for summary judgment fails to offer "evidence that shows a genuine issue for trial." (Doc. No.
7 100 at 5.) The pending findings and recommendations were served on the parties and contained
8 notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at
9 6.) On March 20, 2025, plaintiff filed objections to the findings and recommendations. (Doc.
10 No. 101.)

11 In those objections, plaintiff argues that the magistrate judge's finding that his "allegations
12 are implausible due to no records" "is not sound" because "not all reports of suicidal ideations or
13 attempts to commit suicide are always reported" and he questions "how can any judge attempt to
14 understand the mind or psych [sic] of one who is deemed to have severe mental illness." (*Id.* at
15 2.) The undersigned is certainly sympathetic to plaintiff's mental health struggles. However, his
16 objections still do not identify evidence supporting his account or provide any specific
17 explanation as to why his description of the events that he claims took place on April 8, 2021,
18 appear in none of the health records submitted to the court on summary judgment and are directly
19 refuted by all of those who would seemingly be aware of the events if they took place as plaintiff
20 claims. Accordingly, plaintiff's objections do not provide a basis upon which to reject the
21 magistrate judge's findings and recommendations.

22 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
23 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the

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25 ² While the assigned magistrate judge chose not to address this point, the undersigned also
26 expresses skepticism that plaintiff's allegations, even if proven, would demonstrate a "serious
27 medical need" as required for his claim, given plaintiff's deposition testimony that he simply
28 wrapped his arm in toilet paper to stop the bleeding from the purported self-inflicted cut to his
arm, and that his injury produced about a "medicine cup size" worth of blood. (Doc. No. 75-4 at
116, 119.)

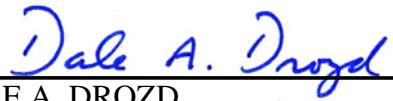
1 court finds the pending findings and recommendations to be supported by the record and by
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed March 11, 2025 (Doc. No. 100), are
5 ADOPTED in full;
6 2. Defendant's motion for summary judgment (Doc. No. 75) is GRANTED, and
7 judgment is entered in his favor; and
8 3. The Clerk of the Court is directed to CLOSE this case.

9 IT IS SO ORDERED.

10 Dated: March 27, 2025

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12 DALE A. DROZD
13 UNITED STATES DISTRICT JUDGE
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